§ 610.1712 VOR Federal Airway 1712.

From Massena, N.Y., VOR; to Plattsburg, N.Y., VOR; MEA 14,500; MAA 24,000.

§ 610.1713 VOR Federal Airway 1713.

From Hill City, Kans., VOR; to Akron, Colo., VOR; MEA 14,500; MAA 24,000.
From Akron, Colo., VOR; to Cheyenne, Wyo., VOR; MEA 14,500; MAA 24,000.

§ 610.1714 VOR Federal Airway 1714.

From Naperville, Ill., VOR; to Keeler, Mich., VOR; MEA 14,500; MAA 24,000.
From Keeler, Mich., VOR; to Peck, Mich., VOR; MEA 14,500; MAA 24,000.

§ 610.1715 VOR Federal Airway 1715.

From Tobe, Colo., VOR; to Hugo, Colo., VOR; MEA 14,500; MAA 24,000.

§ 610.1716 VOR Federal Airway 1716.

From Seattle, Wash., VOR; to Ellensburg, Wash., VOR; MEA 14,500; MAA 24,000.
From Ellensburg, Wash., VOR; to Ephrata, Wash., VOR; MEA 14,500; MAA 24,000.

§ 610.1717 VOR Federal Airway 1717.

From Denver, Colo., VOR; to Sidney, Nebr., VOR; MEA 14,500; MAA 24,000.

§ 610.1718 VOR Federal Airway 1718.

From Mullan Pass, Idaho, VOR; to Cut Bank, Mont., VOR; MEA 14,500; MAA 24,000.

§ 610.1719 VOR Federal Airway 1719.

From Los Angeles, Calif., VOR; to Palmdale, Calif., VOR; MEA 14,500; MAA 24,000.

§ 610.1721 VOR Federal Airway 1721.

From Prescott, Ariz., VOR; to Bryce Canyon, Utah, VOR; MEA 14,500; MAA 24,000.
From Bryce Canyon, Utah, VOR; to Delta, Utah, VOR; MEA 14,500; MAA 24,000.
From Delta, Utah, VOR; to Malad City, Utah, VOR; MEA 14,500; MAA 24,000.

§ 610.1722 VOR Federal Airway 1722.

From Casper, Wyo., VOR; to Smithwick, S. Dak., VOR; MEA 14,500; MAA 24,000.
From Smithwick, S. Dak., VOR; to Winner, S. Dak., VOR; MEA 14,500; MAA 24,000.
From Winner, S. Dak., VOR; to Sioux Falls, S. Dak., VOR; MEA 14,500; MAA 24,000.

§ 610.1723 VOR Federal Airway 1723.

From Parkersburg, W. Va., VOR; to Pittsburgh, Pa., VOR; MEA 14,500; MAA 24,000.

§ 610.1724 VOR Federal Airway 1724.

From Crazy Woman, Wyo., VOR; to Rapid City, S. Dak., VOR; MEA 14,500; MAA 24,000.

§ 610.1725 VOR Federal Airway 1725.

From Tiverton, Ohio, VOR; to Clarion, Pa., VOR; MEA 18,000; MAA 24,000.
From Clarion, Pa., VOR; to Bradford, Pa., VOR; MEA 14,500; MAA 24,000.
From Bradford, Pa., VOR; to Wellsville, N.Y., VOR; MEA 14,500; MAA 24,000.

§ 610.1726 VOR Federal Airway 1726.

From Gunnison, Colo., VOR; to Colorado Springs, Colo., VOR; MEA 16,500; MAA 24,000.
From Colorado Springs, Colo., VOR; to Hugo, Colo., VOR; MEA 14,500; MAA 24,000.
From Hugo, Colo., VOR; to Hill City, Kans., VOR; MEA 14,500; MAA 24,000.

§ 610.1727 VOR Federal Airway 1727.

From Rosewood, Ohio, VOR; to Attica, Ohio, VOR; MEA 14,500; MAA 24,000.
From Attica, Ohio, VOR; to Cleveland, Ohio, VOR; MEA 14,500; MAA 24,000.
From Cleveland, Ohio, VOR; to Jefferson, Ohio, VOR; MEA 14,500; MAA 24,000.
From Jefferson, Ohio, VOR; to Erie, Pa., VOR; MEA 14,500; MAA 24,000.
From Erie, Pa., VOR; to Buffalo, N.Y., VOR; MEA 14,500; MAA 24,000.

§ 610.1728 VOR Federal Airway 1728.

From San Luis Obispo, Calif., VOR; to Gorman, Calif., VOR; MEA 14,500; MAA 24,000.
From Gorman, Calif., VOR; to Palmdale, Calif., VOR; MEA 14,500; MAA 24,000.
From Palmdale, Calif., VOR; to Hector, Calif., VOR; MEA 14,500; MAA 24,000.
From Hector, Calif., VOR; to Needles, Calif., VOR; MEA 14,500; MAA 24,000.
From Needles, Calif., VOR; to Peach Springs, Ariz., VOR; MEA 14,500; MAA 24,000.

§ 610.1729 VOR Federal Airway 1729.

From Pittsburgh, Pa., VOR; to Erie, Pa., VOR; MEA 14,500; MAA 24,000.

§ 610.1730 VOR Federal Airway 1730.

From Prescott, Ariz., VOR; to Winslow, Ariz., VOR; MEA 14,500; MAA 24,000.
From Winslow, Ariz., VOR; to Crown Point, N. Mex., VOR; MEA 14,500; MAA 24,000.
From Crown Point, N. Mex., VOR; to Taos, N. Mex., VOR; MEA 14,500; MAA 24,000.
From Taos, N. Mex., VOR; to Tobe, Colo., VOR; MEA 16,700; MAA 24,000.
From Tobe, Colo., VOR; to Garden City, Kans., VOR; MEA 14,500; MAA 24,000.
From Garden City, Kans., VOR; to Russell, Kans., VOR; MEA 14,500; MAA 24,000.

§ 610.1731 VOR Federal Airway 1731.

From Greensboro, N.C., VOR; to Flat Rock, Va., VOR; MEA 14,500; MAA 24,000.
From Flat Rock, Va., VOR; to Richmond, Va., VOR; MEA 14,500; MAA 24,000.

§ 610.1732 VOR Federal Airway 1732.

From Linden, Calif., VOR; to Mina, Nev., VOR; MEA 14,500; MAA 24,000.
From Mina, Nev., VOR; to Currant, Nev., VOR; MEA 14,500; MAA 24,000.
From Currant, Nev., VOR; to Delta Utah, VOR; MEA 15,100; MAA 24,000.
From Delta, Utah, VOR; to Myton, Utah, VOR; MEA 14,500; MAA 24,000.
From Myton, Utah, VOR; to Laramie, Wyo., VOR; MEA 21,000; MAA 24,000.
From Laramie, Wyo., VOR; to Scottsbluff, Nebr., VOR; MEA 14,500; MAA 24,000.

§ 610.1733 VOR Federal Airway 1733.

From New Castle, Del., VOR; to Yardley, Pa., VOR; MEA 14,500; MAA 24,000.
From Yardley, Pa., VOR; to INT Yardley, Pa., VOR 056 T rad and Solberg, N.J., VOR 135 T rad; MEA 14,500; MAA 24,000.

§ 610.1734 VOR Federal Airway 1734.

From Salt Lake City, Utah, VOR; to INT Salt Lake City, Utah, VOR 065 T rad and Rock Springs, Wyo., VOR 259 T rad; MEA 17,000; MAA 24,000.

§ 610.1735 VOR Federal Airway 1735.

From INT Boston, Mass., VOR 223 and Putnam, Conn., VOR 195 T rad; to Putnam, Conn., VOR; MEA 14,500; MAA 24,000.
From Putnam, Conn., VOR; to Boston, Mass., VOR; MEA 14,500; MAA 24,000.

§ 610.1736 VOR Federal Airway 1736.

From Provo, Utah, VOR; to INT Provo, Utah, VOR 045 T rad and Rock Springs, Wyo., VOR 259 T rad MEA 17,000; MAA 24,000.

§ 610.1738 VOR Federal Airway 1738.

From Sacramento, Calif., VOR; to Reno, Nev., VOR; MEA 14,500; MAA 24,000.

§ 610.1739 VOR Federal Airway 1739.

From Chattanooga, Tenn., VOR; to Crossville, Tenn., VOR; MEA 14,500; MAA 24,000.
From Crossville, Tenn., VOR; to Louisville, Ky., VOR; MEA 14,500; MAA 24,000.
From Louisville, Ky., VOR; to Cincinnatti, Ohio, VOR; MEA 14,500; MAA 24,000.

§ 610.1740 VOR Federal Airway 1740.

From Albany, N.Y., VOR; to Hartford, Conn., VOR; MEA 14,500; MAA 24,000.

§ 610.1741 VOR Federal Airway 1741.

From Chattanooga, Tenn., VOR; to Bowling Green, Ky., VOR; MEA 14,500; MAA 24,000.
From Bowling Green, Ky., VOR; to Nabb, Ind., VOR; MEA 14,500; MAA 24,000.
From Nabb, Ind., VOR; to Cincinnatti, Ohio, VOR; MEA 14,500; MAA 24,000.

§ 610.1742 VOR Federal Airway 1742.

From Duluth, Minn., VOR; to Green Bay, Wis., VOR; MEA 14,500; MAA 24,000.

§ 610.1743 VOR Federal Airway 1743.

From Pulaski, Va., VOR; to Elkins, W. Va., VOR; MEA 14,500; MAA 24,000.

§ 610.1744 VOR Federal Airway 1744.

From Boise, Idaho, VOR; to Pocatello, Idaho, VOR; MEA 14,500; MAA 24,000.
From Pocatello, Idaho, VOR; to Big Piney, Wyo., VOR; MEA 14,500; MAA 24,000.
From Big Piney, Wyo., VOR; to Cherokee, Wyo., VOR; MEA 14,500; MAA 24,000.

§ 610.1745 VOR Federal Airway 1745.

From Lamar, Colo., VOR; to Hill City, Kans., VOR; MEA 14,500; MAA 24,000.

§ 610.1746 VOR Federal Airway 1746.

From Texico, N. Mex., VOR; to Guthrie, Tex., VOR; MEA 14,500; MAA 24,000.
From Guthrie, Tex., VOR; to Bridgeport, Tex., VOR; MEA 14,500; MAA 24,000.

(Secs. 313(a), 307(c), 72 Stat. 752, 749; 49 U.S.C. 1354(a), 1348(c))

These rules shall become effective April 6, 1961.

Issued in Washington, D.C., on March 9, 1961.

GEORGE C. PRILL,
Acting Director,
Bureau of Flight Standards.

[F.R. Doc. 61-2301; Filed, Mar. 21, 1961; 8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

SOLVENTS IN SPICE OLEORESINS

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Kalamazoo Spice Extraction Company, Post Office Box 591, Kalamazoo, Michigan, and other relevant material, has concluded that the following regulations should issue in conformity with section 409 of the Federal Food, Drug, and Cosmetic Act, with respect to the named food additives in spice oleoresins, when present therein as solvent residues from the extraction process. Therefore, pursuant to the provisions of the act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the au-

thority delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625) Subpart D of the food additive regulations (21 CFR Part 121) is amended by adding thereto the following new sections:

§ 121.1039 Methylene chloride residues.

A tolerance of 30 parts per million is established for methylene chloride in spice oleoresins when present therein as a residue from the extraction of spice; *Provided, however,* That if residues of other chlorinated solvents are also present the total of all residues of such solvents shall not exceed 30 parts per million.

§ 121.1040 Ethylene dichloride residues.

A tolerance of 30 parts per million is established for ethylene dichloride in spice oleoresins when present therein as a residue from the extraction of spice; *Provided, however,* That if residues of other chlorinated solvents are also present the total of all residues of such solvents shall not exceed 30 parts per million.

§ 121.1041 Trichloroethylene residues.

A tolerance of 30 parts per million is established for trichloroethylene in spice oleoresins when present therein as a residue from the extraction of spice; *Provided, however,* That if residues of other chlorinated solvents are also present the total of all residues of such solvents shall not exceed 30 parts per million.

§ 121.1042 Acetone residues.

A tolerance of 30 parts per million is established for acetone in spice oleoresins when present therein as a residue from the extraction of spice.

§ 121.1043 Isopropyl alcohol residues.

A tolerance of 50 parts per million is established for isopropyl alcohol in spice oleoresins when present therein as a residue from the extraction of spice.

§ 121.1044 Methyl alcohol residues.

A tolerance of 50 parts per million is established for methyl alcohol in spice oleoresins when present therein as a residue from the extraction of spice.

§ 121.1045 Hexane residues.

A tolerance of 25 parts per million is established for hexane in spice oleoresins when present therein as a residue from the extraction of spice.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: March 12, 1961.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 61-2500; Filed, Mar. 21, 1961; 8:54 a.m.]

SUBCHAPTER C—DRUGS

PART 146d—CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS

Changes in Warning Statements and Labeling

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for the certification of chloramphenicol and chloramphenicol-containing drugs (21 CFR 146d.301; 26 F.R. 1183) are amended as follows:

Section 146d.301(c)(3) is amended by adding two subdivisions, as follows:

§ 146d.301 Chloramphenicol.

* * * * *

(c) *Labeling.* * * *

(3) * * *

(iv) The statement "For manufacturing use," "For repacking," or "For manufacturing use or repacking."

(v) The expiration date required by subparagraph (1)(i)(*b*) of this paragraph.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER with the same prescribed conditions as set forth in the document published in the above-identified matter in the FEDERAL REGISTER of February 10, 1961 (26 F.R. 1183).

(Sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371)

Dated: March 15, 1961.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner, of Food and Drugs.

[F.R. Doc. 61-2501; Filed, Mar. 21, 1961; 8:54 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6556]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Contributions to Pension Plans, Employees' Annuity Plans, and Stock Bonus and Profit-Sharing Plans; Carryover of Unused Pension Trust Deductions in Certain Cases

On December 24, 1960, notice of proposed rule making with respect to the regulations under section 381(c)(11) (contributions to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans) and (20) (carryover of unused pension trust deductions in certain cases) of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (25 F.R. 13697). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted. The regulations under section 381(c)(11) shall apply to liquidations and reorganizations, the tax treatment of which is determined under the Internal Revenue Code of 1954. The regulations under section 381(c)(20) are applicable with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: March 15, 1961.

HENRY H. FOWLER,
Acting Secretary of the Treasury.

The following regulations are hereby prescribed under section 381(c)(11) (contributions to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans) and (20) (carryover of unused pension trust deductions in certain cases). The regulations under section 381(c)(11) shall apply to liquidations and reorganizations, the tax treatment of which is determined under the Internal Revenue Code of 1954. The regulations under section 381(c)(20) are applicable with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

Sec.

Sec.
1.381(c)(20) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; carryover of unused pension trust deductions in certain cases.

AUTHORITY: §§ 1.381(c)(11), 1.381(c)(11)–1, and 1.381(c)(20) issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

§ 1.381(c)(11) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; contributions to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans.

SEC. 381. *Carryovers in certain corporate acquisitions.* * * *

(c) *Items of the distributor or transferor corporation.* The items referred to in subsection (a) are:

* * * * *

(11) *Contributions to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans.* The acquiring corporation shall be considered to be the distributor or transferor corporation after the date of distribution or transfer for the purpose of determining the amounts deductible under section 404 with respect to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans.

§ 1.381(c)(11)–1 Contributions to pension plans, employees' annuity plans, and stock bonus and profit-sharing plans.

(a) *Carryover requirement.* Section 381(c)(11) provides that, for purposes of determining amounts deductible under section 404 for any taxable year, the acquiring corporation shall be considered after the date of distribution or transfer to be the distributor or transferor corporation in respect of any pension, annuity, stock bonus, or profit-sharing plan.

(b) *Nature of carryover.* (1) Primarily, section 381(c)(11) and this section apply to the amount of any unused deductions or excess contributions carryovers which, in the absence of the transaction causing section 381 to apply, would have been available to the distributor or transferor corporation under section 404. Thus, for example, this section applies to unused deductions under a profit-sharing or stock bonus trust which, in accordance with the second sentence of section 404(a)(3)(A) and § 1.404(a)–9, would have been available in succeeding taxable years to the transferor corporation if the transfer of assets to the acquiring corporation had not occurred.

(2) Section 381(c)(11) also permits or requires the acquiring corporation to be treated as though it were the distributor or transferor corporation for the purpose of satisfying any conditions which would have been required of the distributor or transferor corporation in the absence of the distribution or transfer, so that it may be determined whether the distributor or transferor corporation, or the acquiring corporation, is entitled to take a deduction under section 404 in respect of a trust or plan established by the distributor or transferor corporation. Thus, for example, in a case when the taxable year of the transferor corporation ends on the date of transfer pursuant to section 381(b)(1), that corporation is entitled, pursuant to the provisions of section 404(a)(6) and paragraph (c) of § 1.404(a)–1, to a deduction in such taxable year for a payment to a qualified trust of that corporation made by the acquiring corporation after the close of such taxable year but within the time specified in section 404(a)(6). In further illustration, if the transferor corporation were to establish a qualified plan, and if the plan were maintained as a qualified plan by the acquiring corporation, then any contributions paid under the plan by the acquiring corporation (other than those which are deductible by the transferor corporation by reason of section 404(a)(6)) would be deductible under section 404 by the acquiring corporation even though the plan were exclusively for the benefit of former employees of the transferor corporation. Also, for example, if the transferor corporation were to adopt an annuity plan during its taxable year ending on the date of transfer, the acquiring corporation would be entitled, subject to the provisions of section 401(b) and § 1.401–5, to amend the plan so as to make it retroactively satisfy the requirements of section 401(a)(3), (4), (5), and (6) for the period beginning with the date on which the plan was put into effect.

(c) *Taxable year of deduction.* The first taxable year of the acquiring corporation in which any amount shall be allowed as a deduction to that corporation by reason of section 381(c)(11) and this section shall be its first taxable year ending after the date of distribution or transfer.

(d) *Requirements for deductions.* (1) In order for any amount paid by the acquiring corporation (other than amounts deductible under section 404(a)(5)) to be deductible by the acquiring corporation by reason of this section in respect of a trust or nontrusteed annuity plan which is established by a distributor or transferor corporation and maintained by the acquiring corporation, the contributions must be paid (or deemed to have been paid under section 404(a)(6)) by the acquiring corporation in a taxable year of that corporation which ends with or within a year of the trust for which it is exempt under section 501(a), or, in the case of a nontrusteed annuity plan, for which it meets the requirements of section 404(a)(2). See, however, section 404(a)(4) and § 1.404(a)–11 for rules relating to deductions for contributions to foreign-situs trusts. The trust or plan which is established by the distributor or transferor corporation and maintained by the acquiring corporation may separately satisfy the requirements of section 401(a) or section 404(a)(2) or may, together with other trusts or plans of the acquiring corporation, constitute a single plan which qualifies under section 401(a) or meets the requirements of section 404(a)(2).

(2) Excess contributions paid under a qualified trust or plan established by the transferor or distributor corporation may be carried over and, subject to the applicable limitations, deducted by the acquiring corporation in a taxable year ending after the date of distribution or transfer regardless of whether the trust is exempt, or the plan meets the requirements of section 404(a)(2), during such taxable year. There are, however, special rules for computing the limitations on the amount of excess contributions which are deductible in a taxable year ending after the trust or plan has terminated (see § 1.404(a)–7, paragraph (e) of § 1.404(a)–9, and paragraph (a) of § 1.404(a)–13). For this purpose, the pension, annuity, stock bonus, or profit-sharing plan of the distributor or transferor corporation under which the excess contributions were made shall be considered continued (and not terminated) by the acquiring corporation if, after the date of distribution or transfer, the acquiring corporation continues the plan as a separate and distinct plan of its own which continues to qualify under section 401(a), or to meet the requirements of section 404(a)(2), or consolidates or replaces that plan with a comparable plan. See subparagraph (4) of this paragraph for rules relating to what constitutes a "comparable" plan.

(3) In order for any amount paid by the acquiring corporation to be deductible by the acquiring corporation as an unused deduction carried over from a qualified profit-sharing or stock bonus trust established by a distributor or transferor corporation, the acquiring corporation must continue such trust established by the distributor or transferor corporation as a separate and distinct trust of its own which continues to qualify under section 401(a), or must consolidate or replace that trust with a comparable trust. In addition, the amount paid by the acquiring corporation will be deductible as an unused deduction carried over from the transferor or distributor corporation only if it is paid into the profit-sharing or stock bonus trust established by the transferor or distributor corporation, or the comparable trust, in a taxable year of the acquiring corporation which ends with or within a year of such trust (or such comparable trust) for which it meets the requirements of section 401(a) and is exempt under section 501(a). See subparagraph (4) of this paragraph for rules relating to what constitutes a "comparable" trust.

(4) For purposes of subparagraphs (2) and (3) of this paragraph, a plan under which deductions are determined pursuant to paragraph (1) or (2) of section 404(a) shall be considered comparable to another plan under which deductions are determined pursuant to either of those paragraphs, and a plan under which deductions are determined pursuant to paragraph (3) of section 404(a) shall be considered comparable to another plan under which deductions are determined pursuant to such paragraph (3). Thus, a profit-sharing plan (which qualifies under section 401(a)) established by the transferor or distributor corporation shall, for purposes of subparagraphs (2) and (3) of this paragraph, be considered terminated if, after the date of distribution or transfer, the acquiring corporation transfers the funds accumulated under the profit-sharing plan into a pension plan cov-

ering the same employees. In such a case, excess contributions paid under the profit-sharing plan by the distributor or transferor corporation may be carried over and deducted by the acquiring corporation in a taxable year ending after the date of distribution or transfer subject to the limitations in section 404(a)(3)(A) computed in accordance with the rules in paragraph (e)(2) of § 1.404(a)–9 for computing limitations when a profit-sharing plan has terminated. On the other hand, unused deductions attributable to the profit-sharing plan may not be carried over and used by the acquiring corporation as a basis for deducting amounts contributed by it to the pension plan.

(e) *Effect of consolidation or replacement of plan on prior contributions.* If a pension, annuity, stock bonus, or profit-sharing plan which was established by a distributor or transferor corporation is terminated after the date of distribution or transfer because of consolidation or replacement with a comparable plan of the acquiring corporation, then the contributions paid to or under its plan by the distributor or transferor corporation on or before the date of distribution or transfer shall not be disallowed under section 404 merely because of the termination of the plan which was established by that corporation, provided that the termination does not cause the plan to fail to qualify under section 401(a).

(f) *Amounts deductible under section 404.* Section 381(c)(11) and this section apply only to amounts which are otherwise deductible under section 404 and the regulations thereunder. See §§ 1.404(a) through 1.404(d)–1. Thus, to be deductible by reason of this section, contributions paid by the acquiring corporation must be expenses which otherwise satisfy the conditions of section 162 (relating to trade or business expenses). No deduction shall be allowed by reason of section 381(c)(11) and this section for a contribution which is allowable under section 162 but is not allowable under section 404. Thus, the acquiring corporation shall not be allowed a deduction by reason of this section in respect of a plan established by a distributor or transferor corporation if the contribution would not otherwise be deductible under section 404 by reason of section 404(c) and § 1.404(c)–1. On the other hand, any unused deductions or excess contributions of a distributor or transferor corporation which are carried over from 1939 Code years shall be deductible by the acquiring corporation if the requirements of this section, section 404(d), and § 1.404(d)–1 are satisfied.

(g) *Cost of past service credits.* In computing the cost of past service credits under a plan with respect to employees of the distributor or transferor corporation, the acquiring corporation may include the cost of credits for periods during which the employees were in the service of the distributor or transferor corporation.

(h) *Separate carryovers required.* The excess contributions which are available to a distributor or transferor corporation under the provisions of section 404(a)(1)(D) and section 404(a)(3)(A) at the close of the date of distribution or transfer and are carried over to the acquiring corporation under this section shall be kept separate and distinct from each other and from any excess contributions which are available to the distributor or transferor corporation at that time under the provisions of section 404(a)(7) and are carried over to the acquiring corporation under this section. If there are excess contributions carried over to the acquiring corporation from more than one transferor or distributor corporation, the excess contributions of each transferor or distributor corporation shall be kept separate and distinct from those of the other transferor or distributor corporations and, with respect to each such transferor or distributor corporation, shall be kept separate and distinct as provided in the preceding sentence. See, however, paragraph (i) of this section for rules for applying the provisions of section 404(a)(3)(A) when the acquiring corporation maintains two or more profit-sharing or stock bonus trusts, one or more of which was established by a distributor or transferor corporation. The requirements in this paragraph shall apply with respect to any excess contributions which are carried over to the acquiring corporation from a distributor or transferor corporation under the provisions of section 404(d) and this section.

(i) *Limitations applicable to profit-sharing or stock bonus trusts.* When contributions are paid by the acquiring corporation after the date of distribution or transfer to two or more profit-sharing or stock bonus trusts, and one or more of such trusts was established by a distributor or transferor corporation, such trusts shall be considered as a single trust in applying the provisions of section 404(a)(3)(A) under this section. Accordingly, in determining its secondary limitation, and its excess contributions carryover, under section 404(a)(3)(A) and § 1.404(a)–9 in any taxable year ending after the date of distribution or transfer, the acquiring corporation shall take into accounts its primary limitations, and the deductions allowed or allowable to it, for all prior years under the limitations provided in those sections, and also the primary limitations of, and deductions allowed or allowable to, the distributor or transferor corporation or corporations for all prior years under the limitations provided in those sections.

(j) *Successive carryovers.* The provisions of section 381(c)(11) and this section shall apply to an acquiring corporation which, in a distribution or transfer to which section 381(a) applies, acquires the assets of a distributor or transferor corporation which has previously acquired the assets of another corporation in a transaction to which section 381(a) applies, even though, in computing an unused deductions or excess contributions carryover to the second acquiring corporation, it is necessary to take into account contributions paid by, and limitations applicable to, the first distributor or transferor corporation.

(k) *Information to be furnished by acquiring corporation.* The acquiring corporation shall furnish such information with respect to a plan established by a distributor or transferor corporation as will, consistently with the principles of § 1.404(a)–2, establish that the provisions of section 404 and this section apply. For purposes of this section, the district director may require any other information that he considers necessary to determine deductions allowable under section 404 and this section or qualification under section 401. Any unused deductions or excess contributions carried over from a distributor or transferor corporation pursuant to this section shall be properly identified with the corporation which would have been permitted to use those deductions or contributions in the absence of the transaction causing section 381 to apply.

(l) *Illustration.* The application of this section may be illustrated by the following example:

Example. In 1955, X Corporation, which makes its return on the basis of the calendar year, paid $400,000 to completely fund past service credits under a qualified pension plan and deducted 10 percent ($40,000) of that cost in each of the taxable years 1955, 1956, and 1957. The pension plan established by X Corporation had an anniversary date of January 1. On December 31, 1957, on which date the undeducted part of the cost amounted to $280,000, X Corporation transferred all its assets to Y Corporation in a statutory merger to which section 361 applies. Y Corporation, which also makes its return on the basis of the calendar year, had a qualified pension plan and trust which also had an anniversary date of January 1. Since Y Corporation had many more employees than X Corporation on the date of transfer, it covered the former employees of X Corporation under its own plan. Y Corporation is entitled to deductions under section 404(a)(1)(D) and this section in 1958 and succeeding taxable years, in order of time, with respect to the undeducted balance of $280,000, to the extent of the difference between the amount paid and deductible by that corporation in each such taxable year and the maximum amount deductible by that corporation for such taxable year in accordance with the applicable limitations of section 404(a)(1). In computing the maximum amount deductible by Y Corporation for 1958 and 1959 under section 404(a)(1)(C), that corporation may include $40,000 for each year, the amount that X Corporation could have included for each of those years in computing the maximum amount that would have been deductible by X Corporation under section 404(a)(1)(C) if the merger had not occurred. Thus, assuming that Y Corporation's appropriate limitation so computed under section 404(a)(1)(C) is $1,000,000 (including the $40,000 carried over from X Corporation under this section) for each of those taxable years, and that Y Corporation contributed $925,000 to its trust in 1958 and $975,000 in 1959, then Y Corporation is entitled under section 404(a)(1)(D) and this section to deduct in 1958 $75,000, and in 1959 $25,000, of the amount ($280,000) carried over from X Corporation. The undeducted balance of such amount ($180,000) available to Y Corporation on December 31, 1959, would be deductible by that corporation in succeeding taxable years in accordance with section 404(a)(1)(D) and this section.

§ 1.381(c)(20) Statutory provisions; carryovers in certain corporate acquisitions; items of the distributor or transferor corporation; carryover of unused pension trust deductions in certain cases.

SEC. 381. *Carryovers in certain corporate acquisitions.* * * *

(c) *Items of the distributor or transferor corporation.* The items referred to in subsection (a) are:

* * * * *

(20) *Carry-over of unused pension trust deductions in certain cases.* Notwithstanding the other provisions of this section, or section 394(a), a corporation which has acquired the properties and assumed the liabilities of a wholly owned subsidiary shall be considered to have succeeded to and to be entitled to take into account contributions of the subsidiary to a pension plan, and shall be considered to be the distributor or transferor corporation after the date of distribution or transfer (but not for taxable years with respect to which this paragraph does not apply) for the purpose of determining the amounts deductible under section 404 with respect to contributions to a pension plan if—

(A) The corporate laws of the State of incorporation of the subsidiary required the surviving corporation in the case of merger to be incorporated under the laws of the State of incorporation of the subsidiary, and

(B) The properties were acquired in a liquidation of the subsidiary in a transaction subject to section 112(b)(6) of the Internal Revenue Code of 1939.

[Sec. 381(c)(20) as added by sec. 1, Act of Jan. 28, 1956 (Pub. Law 396, 84th Cong., 70 Stat. 7)]

[F.R. Doc. 61-2474; Filed, Mar. 21, 1961; 8:49 a.m.]

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. 6557]

PART 179—MACHINE GUNS AND CERTAIN OTHER FIREARMS

Miscellaneous Amendments

On December 29, 1960, a notice of proposed rule making with respect to the amendment of 26 CFR Part 179 was published in the FEDERAL REGISTER (25 F.R. 13920). That notice afforded interested persons an opportunity to submit written comments or suggestions pertaining thereto. No comments or suggestions were received within the 30-day period prescribed in the notice and the amendments as published in the FEDERAL REGISTER are hereby adopted.

Effective date. This Treasury decision shall become effective 30 days after its publication in the FEDERAL REGISTER.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved March 15, 1961.

HENRY H. FOWLER,
Acting Secretary of the Treasury.

In order to implement the provisions of the Internal Revenue Code of 1954, as amended by Public Law 86-478 (74 Stat. 149), and to make certain conforming and clarifying changes, regulations in 26 CFR Part 179 are amended as follows:

1. The statement of authority under which this Part is issued is amended to read as follows:

AUTHORITY: § 179.1 through 179.195 are issued under 68A Stat. 917, 26 U.S.C. 7805, and implement Chapter 53 of the Internal Revenue Code of 1954 (68A Stat. 721). Related statutes which are interpreted or applied are cited in the text of the section interpreting or applying such a statute or in parentheses at the conclusion of the section.

§ 179.1 [Amendment]

2. Section 179.1 is amended by inserting "(occupational)" between the words "special" and "taxes" in paragraph (a).

§ 179.14 [Deletion]

3. Section 179.14 is deleted.

4. Section 179.20 is amended to read as follows:

§ 179.20 Firearm.

"Firearm" shall mean (a) a shotgun having a barrel or barrels of less than 18 inches in length, or (b) a rifle having a barrel or barrels of less than 16 inches in length, or (c) any weapon made from a rifle or shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches, or (d) any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or (e) a machine gun, and includes (f) a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition.

§ 179.22 [Amendment]

5. Section 179.22 is amended by adding a second sentence to read as follows: "Except that, bringing a firearm from a foreign country or a territory subject to the jurisdiction of the United States into a foreign trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to the I.R.C. and this Part, shall not be deemed importation."

§ 179.29 [Amendment]

6. Section 179.29 is amended by striking the words "or creation" and "other weapon" and inserting in lieu of the latter two words, the word "firearm".

7. A new § 179.29a to read as follows is inserted immediately after § 179.29:

§ 179.29a Manual reloading.

Manual reloading shall mean the inserting of a cartridge or shell into the chamber of a firearm either with the hands or by means of a mechanical device controlled and energized by the hands.

§§ 179.32 and 179.33 [Deletions]

8. Sections 179.32 and 179.33 are deleted.

9. Section 179.35 is amended to read as follows:

§ 179.35 Pistol.

"Pistol" shall mean a weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s). The term shall not include any gadget device, any gun altered or converted to resemble a pistol, any gun that fires more than one shot, without manual reloading, by a single function of the trigger, or any small portable gun such as: Nazi belt buckle pistol, glove pistol, or a one-hand stock gun designed to fire fixed shotgun ammunition.

§ 179.43 [Amendment]

10. Section 179.43 is amended by striking, ", the Territories of Alaska and Hawaii,".

11. A new § 179.45 to read as follows is inserted immediately after § 179.44:

§ 179.45 Unserviceable firearm.

"Unserviceable firearm" shall mean a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

12. Section 179.50 is amended to read as follows:

§ 179.50 Liability for tax.

Every person who engages in the business of importing, manufacturing or dealing in (including pawnbrokers) firearms in the United States is required to pay a special (occupational) tax for each place where such business is conducted.

13. Section 179.51 is amended to read as follows:

§ 179.51 Special (occupational) tax rates.

(a) The special (occupational) taxes are as follows:

	Per year or fraction thereof
Class 1: Importers of firearms	$500
Manufacturers of firearms, except manufacturers in Class 2	500
Class 2: Manufacturers of firearms whose production is limited to guns with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, or guns classified as "any other weapon" under section 5848 (5), I.R.C., or guns of both types	25
Class 3: Pawnbrokers	300
Class 4: Dealers, other than pawnbrokers, except those in Class 5	200
Class 5: Dealers whose dealing in firearms is limited to guns with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, or guns classified as "any other weapon" under section 5848 (5), I.R.C., or guns of both types	10

(b) The tax year begins July 1 and ends June 30. Special (occupational) taxes are due and payable on first engaging in business, and thereafter on or before the first day of July each year. Special (occupational) taxes may not be prorated. Persons commencing business at any time after the first day of July in any year are liable for the special

(occupational) tax for the complete tax year.

14. Section 179.52 is amended to read as follows:

§ 179.52 Registration, return, and payment of special (occupational) taxes.

Every person, prior to commencing any business taxable under section 5801, I.R.C., must, for each place of business operated by such person, register, file a return (Form 11) with, and pay the proper tax to, the District Director of the collection district in which each such place of business is located. Thereafter, such person must, for each place of business, register, file a return (Form 11), and pay the proper tax on or before the 1st day of July each year during which he continues such business. If a person has paid special (occupational) taxes for a taxable year, the District Director will furnish him a return (Form 11), which must be filled out and executed under penalty of perjury, for registration and tax payment for the succeeding taxable year if that person intends to continue in business. Properly completing, executing, and timely filing of a return (Form 11) will constitute compliance with section 5802, I.R.C. A person doing business under a style or trade name must give his own name, followed by his style or trade name. In the case of a partnership, unincorporated association, firm, or company, other than a corporation, its style or trade name must be given, also the name of each member and his place of residence. The class of business, as described in § 179.51, and the period for which special (occupational) tax is due, must also be stated.

15. Section 179.53 is amended to read as follows:

§ 179.53 The special tax stamp, receipt for special (occupational) taxes.

Upon receipt of a properly completed and executed return (Form 11) accompanied by remittance of the full amount due, the District Director will issue a special tax stamp as evidence of payment of the special (occupational) tax.

16. Section 179.56 is amended to read as follows:

§ 179.56 Engaging in business at more than one location.

A person must pay the special (occupational) tax for each location where he engages in any business taxable under section 5801, I.R.C. However, a person paying a special (occupational) tax covering his principal place of business may utilize other locations solely for storage of firearms without incurring special (occupational) tax liability at such locations. A manufacturer, upon the single payment of the appropriate special (occupational) tax, may sell firearms of the type(s) covered by such tax, if such firearms are of his own manufacture, at the place of manufacture and at his principal office or place of business if no such firearms, except samples, are kept at such office or place of business. When a person changes the location of a business for which he has paid the special (occupational) tax, he will be liable for another such tax unless the change is properly registered with the District Director, as provided in § 179.64.

17. Section 179.57 is amended to read as follows:

§ 179.57 Engaging in more than one business at the same location.

If more than one business taxable under section 5801, I.R.C., is carried on at the same location during a taxable year, the special (occupational) tax imposed on each such business must be paid.

§ 179.58 [Amendment]

18. Section 179.58 is amended by striking "copartnership" and inserting "partnership" in lieu thereof, and by inserting "(occupational)" between the words "special" and "tax".

§ 179.60 [Amendment]

19. Section 179.60 is amended by inserting "(occupational)" between the words "special" and "tax" in the first sentence and striking the expression "Form 11A (Firearms)" in the second sentence and substituting the expression "return, Form 11" in lieu thereof.

§ 179.61 [Amendment]

20. Section 179.61 is amended by inserting "(occupational)" between the words "special" and "tax" preceding the word "liability" in the second sentence.

21. Section 179.62 is amended to read as follows:

§ 179.62 Change in partnership or unincorporated association.

When one or more members withdraw from a partnership or an unincorporated association, the remaining member, or members, may, without incurring additional special (occupational) tax liability, carry on the same business at the same location for the balance of the taxable period for which special (occupational) tax was paid, provided any such change shall be registered in the same manner as required by § 179.60. Where new member(s) are taken into a partnership or an unincorporated association, the new firm so constituted may not carry on business under the special tax stamp of the old firm. The new firm must file a return, pay the special (occupational) tax and register in the same manner as a person who first engages in business is required to do under § 179.52, even though the name of the new firm may be the same as that of the old. Where the members of a partnership or an unincorporated association, which has paid special (occupational) tax, form a corporation to continue the business, a new special tax stamp must be taken out in the name of the corporation.

§ 179.63 [Amendment]

22. Section 179.63 is amended by inserting "(occupational)" between the words "special" and "tax" in the first sentence and inserting "(occupational)" between the words "special" and "tax" in the second sentence.

23. Section 179.64 is amended to read as follows:

§ 179.64 Notice by taxpayer.

Whenever a taxpayer removes his business to a location other than specified in his last special (occupational) tax return (see § 179.52), he shall, within 30 days after the date of removal, file another return (Form 11). Such return shall be designated as "removal registry", set forth the time of removal, and the address of the new location. The taxpayer's special tax stamp must accompany the return for notation by the District Director of the change of location. As to liability in case of failure to register a change of location within 30 days, see § 179.66.

24. Section 179.65 is amended to read as follows:

§ 179.65 Failure to pay special (occupational) tax.

Any person who engages in a business taxable under section 5801, I.R.C., without timely payment of the tax imposed with respect to such business (see § 179.52) shall be liable for such tax, plus the interest and penalties thereon. In addition, such person may be liable for criminal penalties under section 5861, I.R.C.

§ 179.66 [Amendment]

25. Section 179.66 is amended by inserting "(occupational)" between the words "special" and "tax" at the three places where these two words appear together in the section.

26. Section 179.67 is amended to read as follows:

§ 179.67 Delinquency.

Any person liable for special (occupational) tax under section 5801, I.R.C., who fails to file a return (Form 11), as prescribed, will be liable for a delinquency penalty computed on the amount of tax due unless a return (Form 11) is later filed and failure to file the return timely is shown to the satisfaction of the District Director to be due to reasonable cause. The delinquincy penalty to be added to the tax is 5 percent if the failure is for not more than one month, with an additional 5 percent for each additional month or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate (section 6651, I.R.C.). However, no delinquency penalty is assessed where the 50 percent addition to tax is assessed for fraud (see § 179.68).

§ 179.69 [Amendment]

27. Section 179.69 is amended by inserting ", possession" between "manufacture" and "or" in the third sentence, and inserting "(occupational)" between the words "special" and "tax" in the last sentence.

§ 179.70 [Amendment]

28. Section 179.70 is amended by inserting "(occupational)" between the words "special" and "taxes" in the first sentence and the second sentence, and by inserting "District" before the word "Director" in the second sentence.

29. Section 179.75 is amended to read as follows:

§ 179.75 Rate of tax.

Except as provided in §§ 179.82, 179.83, and 179.84, a tax of $200 is imposed on the making of any firearm in the United States (whether by manufacture, putting together, alteration, any combination thereof, or otherwise). Such tax shall be paid in advance of the making of the firearm by the person making the firearm. Payment of the tax on the making of a firearm shall be represented by a $200 adhesive stamp bearing the words "National Firearms Act".

§ 179.76 [Deletion]

30. Section 179.76 is deleted.

§ 179.77 [Amendment]

31. Section 179.77 is amended by striking "of the proper denomination (see § 179.76)" in the third sentence and inserting in lieu thereof "(see § 179.75)."

§ 179.78 [Amendment]

32. Section 179.78 is amended by striking "90 days" in the first sentence and inserting "one year" in lieu thereof.

§ 179.82 [Amendment]

33. Section 179.82 is amended by inserting "(occupational)" between the words "special" and "tax" in the first sentence.

34. Section 179.83 is amended to read as follows:

§ 179.83 Altering a firearm, the making of which has previously been taxed.

No tax will be imposed on the making of a firearm from another firearm with respect to which a making tax has been paid under section 5821(a), I.R.C., prior to such making. However, the person so altering or converting such firearm shall notify the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., in writing immediately thereafter, giving a complete description of the firearm so altered or converted and indicating the changes made.

§ 179.84 [Amendment]

35. Section 179.84 is amended by striking the heading and inserting in lieu thereof "Making a firearm for use of Government agencies or peace officers." and by striking the words "or any Federal officer" in the first sentence.

§ 179.95 [Amendment]

36. Section 179.95 is amended by inserting the words "of the proper denomination" between the words "stamp" and "bearing".

37. Section 179.96 is amended to read as follows:

§ 179.96 Rate of tax.

The transfer tax imposed with respect to firearms transferred within the United States is at the rate of $200 for the transfer of each firearm, except that, the transfer tax impósed with respect to any gun with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and on any gun classified as "any other weapon" under section 5848(5), I.R.C., is at the rate of $5 for the transfer of each such weapon.

38. A new § 179.96a to read as follows is inserted immediately after § 179.96.

§ 179.96a Liability for tax.

The tax imposed on the transfer of a firearm shall be paid by the transferor, except that, if a firearm is transferred without payment of the proper tax, the transferor and transferee shall be jointly and severally liable for such tax.

39. Section 179.98 is amended to read as follows:

§ 179.98 Written application and order required for transfer of firearm.

Except as otherwise provided, no firearm may be transferred in the United States unless a Form 4 (Firearms) covering the transfer of the firearm has been approved by the Director, Alcohol and Tobacco Tax Division, Washington 25, D.C. The person seeking to obtain a firearm must complete the items in Form 4 (Firearms), in duplicate, relating to the applicant, execute said form as the applicant, and then submit the form, in duplicate, to the person transferring the firearm. The person desiring to transfer the firearm will complete the items in the Form 4 (Firearms), in duplicate, relating to such a person, affix to the original a "National Firearms Act" stamp of the proper denomination in the space provided (§ 179.96), properly cancel such stamp (§ 179.101), execute the said form, and submit the said form, in duplicate, to the Director for approval. Upon approval, the original of the Form 4 (Firearms) will be returned to the transferor, who may then deliver the firearm and the approved original Form 4 (Firearms) to the applicant.

§ 179.99 [Amendment]

40. Section 179.99 is amended by striking "90 days" in the first sentence and inserting "one year" in lieu thereof.

41. Section 179.103 is amended to read as follows:

§ 179.103 Special (occupational) tax payers.

The transfer tax and the requirements as to the use of Form 4 (Firearms) (§ 179.98) are not applicable where importers or manufacturers in Class 1, pawnbrokers in Class 3 and dealers in Class 4, who have registered and paid special (occupational) tax, transfer any type of firearm to other like manufacturers, like importers, or like dealers (including pawnbrokers), who have registered and paid special (occupational) tax. Manufacturers in Class 2 and dealers in Class 5 may transfer only the types of firearms which they are authorized to produce or deal in to any other properly registered special (occupational) tax payer without payment of transfer tax and without complying with the requirements as to the use of Form 4 (Firearms). Similarly, importers, manufacturers in Class 1, pawnbrokers in Class 3 and dealers in Class 4 may transfer only guns with combination shotgun and rifle barrels, 12 inches or more but less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and firearms classified as "any other weapon" to manufacturers in Class 2 or dealers in Class 5 without payment of transfer tax and without complying with the requirements relating to the use of Form 4 (Firearms). The class of a special (occupational) tax payer (Class 1 through Class 5) referred to in this section shall be determined by the rate of special (occupational) tax paid by the manufacturer, importer or dealer, as provided in § 179.51. Before a tax-free transfer is made, the transferor must satisfy himself that the transferee is a registered special (occupational) tax payer.

42. Section 179.104 is amended to read as follows:

§ 179.104 Peace officers.

Pursuant to section 5812, I.R.C., the following persons are hereby designated as peace officers entitled to receive firearms without payment of transfer tax or the use of Form 4 (Firearms): Sheriffs, chiefs of police, commissioners of police, superintendents or other chief officers of State police units, including State highway patrols, directors of public safety, and bona fide subordinate officers under the command of the aforementioned persons upon appropriate recommendation of the officials designated. However, when any firearm is transferred tax-exempt under this section, §§ 179.105 and 179.106 must be complied with.

43. A new § 179.104a to read as follows is inserted immediately after § 179.104:

§ 179.104a Government Agencies.

Firearms may be transferred to the United States Government, any State, Territory, or possession of the United States, or to any political subdivision thereof, or to the District of Columbia, without payment of transfer tax or the use of Form 4 (Firearms). However, when any firearm is transferred tax-exempt under this section, §§ 179.105 and 179.106 must be complied with.

44. A new § 179.104b to read as follows is inserted immediately after § 179.104a:

§ 179.104b Unserviceable firearms.

An unserviceable firearm may be transferred as a curiosity or ornament without payment of transfer tax or the use of Form 4 (Firearms). However, when any unserviceable firearm is transferred tax-exempt under this section, § 179.105 must be complied with.

§ 179.105 [Amendment]

45. Section 179.105 is amended by striking the period from the heading and adding "and transfer." and by striking "of the Internal Revenue Code of 1954," in the first sentence and inserting "I.R.C., as implemented by §§ 179.104, 179.104a, and 179.104b," in lieu thereof.

§ 179.106 [Amendment]

46. Section 179.106 is amended by striking "of the Internal Revenue Code of 1954" from the first sentence and inserting "I.R.C., as implemented by §§ 179.104 and 179.104a," in lieu thereof.

§ 179.120 [Amendment]

47. Section 179.120 is amended by striking "already registered," in the first sentence and inserting "registered to him," in lieu thereof.

§ 179.130 [Amendment]

48. Section 179.130 is amended by striking the word "duplicate" in the first sentence and inserting the word "triplicate" in lieu thereof and by deleting the last sentence and inserting the following sentences in lieu thereof: "The approval of an application to import a firearm shall be automatically terminated at the expiration of 6 months, unless upon request, it is further extended by the Director. If a firearm described in the approved application is not imported, prior to the expiration of the permit, the Director should be so notified. Collectors of customs will not permit release of the firearm from customs custody, except for exportation, unless covered by an application which has been approved by the Director and such approval is currently effective."

§ 179.132 [Amendment]

49. Section 179.132 is amended by inserting "(occupational)" between the words "special" and "tax" in the first part of the proviso, and is further amended by striking "special-tax payer" from the latter part of the proviso and inserting "special (occupational) tax payer of a type qualified to import, manufacture, or deal in the firearm transferred" in lieu thereof.

50. Section 179.137 is amended to read as follows:

§ 179.137 Proof of exportation.

Within a six-month's period from date of issuance of the permit to export firearms, the exporter shall furnish or cause to be furnished to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., (a) the certificate of exportation (Part 3 of Form 9 (Firearms)) executed by the U.S. Collector of Customs as provided in § 179.136, or (b) the certificate of mailing by parcel post (Part 4 of Form 9 (Firearms)) executed by the postmaster of the post office receiving the parcel containing the firearm, or (c) a certificate of landing executed by a Customs officer of the foreign country to which the firearm is exported, or (d) a sworn statement of the foreign consignee covering the receipt of the firearm, or (e) the return receipt, or a photostat thereof, signed by the addressee or his agent, where the shipment of a firearm was made by insured or registered parcel post. Issuance of a permit to export a firearm and furnishing of evidence establishing such exportation under this section will relieve the actual exporter and the person selling to the exporter for exportation from transfer tax liability. Where satisfactory evidence of exportation of a firearm is not furnished within the stated period the transfer tax will be assessed.

§ 179.139 [Amendment]

51. Section 179.139 is amended by striking "(other than Hawaii)" in the first sentence.

§ 179.151 [Amendment]

52. Section 179.151 is amended by striking the period at the end of the first sentence and inserting in lieu thereof a colon and adding "except that if a manufacturer, importer, or dealer has filed a Form 5 (Firearms) giving notice that a firearm has been transferred, a Form 3 (Firearms) need not be filed with respect to that firearm".

§ 179.171 [Amendment]

53. Section 179.171 is amended by striking "$1" and inserting "$5" in lieu thereof.

§ 179.181 [Amendment]

54. Section 179.181 is amended by inserting "(occupational)" between the words "special" and "taxes" in the first sentence.

§ 179.190 [Amendment]

55. Section 179.190 is amended by inserting "and the provisions of this Part," between "1954," and "shall".

[F.R. Doc. 61-2490; Filed, Mar. 21, 1961; 8:52 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 253, 290]

EXPORTATION OF TOBACCO MATERIALS, TOBACCO PRODUCTS, AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Deliveries to Foreign-Trade Zones

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

The purpose of this Treasury decision is to revise and incorporate in 26 CFR Part 290 the regulations now contained in 26 CFR (1954) Part 253 relating to the removal of tobacco products and cigarette papers and tubes to foreign-trade zones. Pursuant to the above, the regulations remaining in 26 CFR (1954) Part 253 are superseded by the regulations in 26 CFR Part 290 amended as follows:

1. A new section, designated § 290.30a, is added immediately following § 290.30.

§ 290.30a Foreign-trade zone.

"Foreign-trade zone" shall mean a foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended.

(48 Stat. 998–1003, as amended; 19 U.S.C. 81a–81u)

2. A new section, designated § 290.54, is added immediately following § 290.53.

§ 290.54 Zone operator.

"Zone operator" shall mean the person to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board created by the Act of June 18, 1934, as amended.

(48 Stat. 998–1003, as amended; 19 U.S.C. 81a–81u)

3. A new section, designated § 290.61a, is added immediately following § 290.61.

§ 290.61a Deliveries to foreign-trade zones—export status.

Tobacco products and cigarette papers and tubes may be removed from a factory or an export warehouse and cigars may be withdrawn from a customs warehouse, without payment of tax, for delivery to a foreign-trade zone for exportation or storage pending exportation in accordance with the provisions of this part. Such articles delivered to a foreign-trade zone under this part shall be considered to be exported for the purpose of the statutes and bonds under which removed and for the purposes of the internal revenue laws generally and the regulations thereunder. However, export status is not acquired until an application on zone Form D for admission of the articles into the zone with zone restricted status has been approved by the collector of customs pursuant to the appropriate provisions of 19 CFR Chapter I, and the required certificate of receipt of the articles in the zone has been made on Forms 2149 or 2150 as prescribed in this part.

(48 Stat. 999, as amended, 72 Stat. 1418; 19 U.S.C. 81c, 26 U.S.C. 5704)

4. A new section, designated § 290.196a, is added immediately following § 290.196.

§ 290.196a To a foreign-trade zone.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse for delivery to a foreign-trade zone, under zone restricted status for the purpose of exportation or storage, the manufacturer or export warehouse proprietor shall consign the shipment to the Zone Operator in care of the customs officer in charge of the zone.

(48 Stat. 999, as amended, 72 Stat. 1418; 19 U.S.C. 81c, 26 U.S.C. 5704)

5. A new section, designated § 290.207a, is added immediately following § 290.207.

§ 290.207a To a foreign-trade zone.

Where tobacco products and cigarette papers and tubes are removed from a factory or an export warehouse for delivery to a foreign-trade zone, under zone restricted status for the purpose of exportation or storage, the manufacturer or export warehouse proprietor making the shipment shall forward two copies of the notice of removal, Form 2149 or 2150, to the customs officer in charge of the zone. Upon receipt of the shipment, the customs officer shall execute the certificate of receipt on each copy of the form, noting thereon any discrepancy, retain one copy for his records, and forward the other copy to the manufacturer or export warehouse proprietor making the shipment for filing with his assistant regional commissioner.

(48 Stat. 999, as amended, 72 Stat. 1418; 19 U.S.C. 81c, 26 U.S.C. 5704)

§ 290.211 [Deletion]

6. Section 290.211 is deleted.

7. A new section, designated § 290.264a, is added immediately following § 290.264.

§ 290.264a To a foreign-trade zone.

Where cigars are withdrawn from a customs warehouse for delivery to a foreign-trade zone, under zone restricted status for the purpose of exportation or storage, the customs warehouse proprietor making the shipment shall forward two copies of the notice of removal, Form 2149, to the customs officer in charge of the zone. Upon receipt of the shipment, the customs officer shall execute the certificate of receipt on each copy of the form, noting thereon any discrepancy, retain one copy for his records, and forward the other copy to the customs warehouse proprietor making the shipment for filing with the appropriate assistant regional commissioner.

[F.R. Doc. 61–2491; Filed, Mar. 21, 1961; 8:52 a.m.]

POST OFFICE DEPARTMENT

[39 CFR Part 115]

ARTICLES MAILED ABROAD BY OR ON BEHALF OF SENDERS IN THE UNITED STATES

Notice of Proposed Rule Making

It is proposed to amend the Post Office Department regulations by adding a new Part 115—Articles Mailed Abroad by or on Behalf of Senders in the United States—to Title 39, Code of Federal Regulations.

There has been an increasing tendency on the part of persons and concerns in the United States to mail or have articles mailed abroad and addressed for delivery in the United States. The Final Protocol of the Universal Postal Convention contains a provision which authorizes the Post Office Department either to return such mailings to the sender or to charge them with our domestic postage rates. The Department proposes to return the mail to origin unless the sender pays the applicable United States Postage.

Although the regulations relate to a proprietary function of the Government, it is the desire of the Postmaster General voluntarily to observe the rule making requirements of the Administrative Procedure Act (5 U.S.C. 1003) in order that patrons of the Postal Service may have

an opportunity to present written views concerning the proposed regulations. Accordingly, such written views may be submitted to the Director, International Service Division, Post Office Department, Washington 25, D.C., at any time prior to the thirtieth day following the date of publication of this notice in the FEDERAL REGISTER.

The proposed amendments, which are to become effective with mailings reaching the United States on and after July 1, 1961, are as follows:

PART 115—ARTICLES MAILED ABROAD BY OR ON BEHALF OF SENDERS IN THE UNITED STATES

Sec.
115.1 Convention provision.
115.2 Policy.
115.3 Prepayment procedure.
115.4 Unpaid mailing procedure.

AUTHORITY: §§ 115.1 to 115.4 issued under R.S. 161, as amended, secs. 501, 505, 74 Stat. 580, 581 (Pub. Law 86-682); 5 U.S.C. 22, 39 U.S.C. 501, 505; Article VI of the Final Protocol of the Universal Postal Convention.

§ 115.1 Convention provision.

Under the provisions of the Final Protocol of the Universal Postal Convention no country is bound to forward or deliver to addressees articles which senders domiciled in its territory mail or cause to be mailed in another country to obtain lower rates of postage established there; the same applies to articles of this kind mailed in large quantities, whether or not such mailings are made to obtain lower rates.

§ 115.2 Policy.

Pursuant to § 115.1, mailings in excess of 10,000 pieces during a 30-day period made in another country by or on behalf of any person or firm whose residence or place of business is in the United States to addressees in the United States or its possessions will be returned to origin unless the sender pays the applicable United States postage on the total number of pieces involved.

§ 115.3 Prepayment procedure.

Senders affected by the provisions of this part will submit a sample of the proposed mailing (envelope and contents) to the International Service Division, Bureau of Transportation, Post Office Department, Washington 25, D.C., with a statement as to the number of pieces to be mailed, when and where the mailing will take place, and a check to cover the amount of the applicable United States postage. Checks will be made payable to the Post Office Department. Notification of postage acceptance and approval of dispatch will be given by the Department to the sender and to the appropriate United States receiving exchange offices which will permit the articles comprised in the mailing to go forward to the addressees without delay and without the necessity for United States postage stamps being placed on the individual pieces involved.

§ 115.4 Unpaid mailing procedure.

When a mailing subject to the policy provisions stated in §115.2 is received on which the United States domestic postage has not been paid it will be held at the exchange office of receipt and the interested United States sender will be contacted for the purpose of collecting the postage payable. After payment of the required amount the mailing will be allowed to go forward; if not paid it will be returned to the country of origin.

LOUIS J. DOYLE,
Acting General Counsel.

[F.R. Doc. 61-2502; Filed, Mar. 21, 1961; 8:55 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 936]

HANDLING OF FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

Notice of Proposed Rule Making

Consideration is being given to the following proposals submitted by the Control Committee, established under the amended marketing agreement and Order No. 36, as amended (7 CFR Part 936), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in California, as the agency to administer the terms and provisions thereof. This is a regulatory marketing program effective under the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674):

(a) That an operating reserve be established in the maximum amount of $80,000 which approximates the average expenses of the Control Committee for one season.

(b) That the Control Committee, at the end of each season, carryover in said operating reserve any excess assessment funds collected during such season: *Provided,* That the total funds in such operating reserve do not exceed the aforesaid amount.

(c) That funds in said operating reserve be used by the Control Committee to cover (1) any authorized expenses incurred by such committee during any season when assessment income is less than such expenses, and (2) necessary expenses of liquidation in the event of termination of the amended marketing agreement and order.

(d) That, upon such termination, any funds not required to defray the necessary expenses of liquidation be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That, to the extent practical, such funds be returned pro rata to the shippers from whom such funds were collected.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building, Washington 25, D.C., not later than the 20th day after the publication of this notice in the FEDERAL REGISTER. All documents should be filed in quadruplicate.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: March 17, 1961.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-2503; Filed, Mar. 21, 1961; 8:55 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Notice of Filing of Petition for Establishment of Tolerance for Residues of Ronnel

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1), the following notice is issued.

A petition has been filed by The Dow Chemical Company, Midland, Michigan, proposing the establishment of a tolerance of 10 parts per million for residues of ronnel (*O,O*-dimethyl *O*-(2,4,5 trichlorophenyl) phosphorothioate) in the fat of cattle, goats, hogs, and sheep.

The analytical method proposed in the petition for determining residues of ronnel is that published in the FEDERAL REGISTER of October 10, 1959 (24 F.R. 8270).

Dated: March 14, 1961.

[SEAL] ROBERT S. ROE,
Director, Bureau of Biological and Physical Sciences.

[F.R. Doc. 61-2477; Filed, Mar. 21, 1961; 8:50 a.m.]

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Notice of Filing of Petition for Establishment of Tolerance for Residues of o-Arsenic Acid

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), the following notice is issued:

A petition has been filed by The Arsenic Industry Committee, care of S. Anderson Peoples, M.D., Davis, California, proposing the establishment of a tolerance of 5 parts per million for residues of *o*-arsenic acid expressed as As_2O_3 in or on raw cottonseed.